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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/078,473	02/21/2002	Hoki Kwon	V637-02992 US	4854
22913	7590	06/21/2004	EXAMINER	
WORKMAN NYDEGGER (F/K/A WORKMAN NYDEGGER & SEELEY) 60 EAST SOUTH TEMPLE 1000 EAGLE GATE TOWER SALT LAKE CITY, UT 84111			NGUYEN, DUNG T	
		ART UNIT		PAPER NUMBER
		2828		

DATE MAILED: 06/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/078,473	KWON, HOKI	
	Examiner	Art Unit	
	Dung (Michael) T Nguyen	2828	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 05 February 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-20 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>02/05/04</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

The drawing was received on 04/01/04. The drawing is Figure 1.

Response to Arguments

Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2, 6-11, and 13-19 rejected under 35 U.S.C. 103(a) as being unpatentable over the admitted prior art in view of McDermott et al. (Growth and doping of GaAsSb via metalorganic chemical vapor deposition for InP heterojunction bipolar transistors in Appl. Phys. Lett., Vol.68, No. 10, 4 March 1996).

With respect to claims 1-2, 8, 13, 16, and 18, the prior art shows in Fig.1 a VCSEL 10 comprising an InGaAsP active region 20 having a plurality of quantum wells, a substrate 12, and a tunnel junction 21. The prior art lacks the tunnel junction including a GaAsSb layer growth via MOCVD between 500 degrees C and 650 degrees C. McDermott teach a GaAsSb layer growth via MOCVD between 500 degrees C and 650 degrees C. For the benefit of a long wavelength VCSEL, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the prior art the GaAsSb layer growth via MOCVD as taught by McDermott.

With respect to claims 14-15, the prior art shows in Fig.1 a bottom DBR 16, a bottom spacer 18, an active region 20, a top spacer 22, and a top DBR 24.

With respect to claims 6-7, McDermott disclose TBA and CC14.

With respect to claims 9, 11 and 17, McDermott disclose the GaAsSb layer concentration greater than $5 \times 10^{19} \text{ cm}^{-3}$.

With respect to claims 10 and 19, McDermott disclose a layer of InP.

Claims 3-5, 12, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over the admitted prior art in view of McDermott et al. (Growth and doping of GaAsSb via metalorganic chemical vapor deposition for InP heterojunction bipolar transistors in Appl. Phys. Lett., Vol.68, No. 10, 4 March 1996) and further in view of Cherng et al. (GaAs_{1-x}Sb_x growth by OMVPE in Journal of Electronic Material, Vol.13, No.5, 1984).

With respect to claims 3-4, 12, and 20, the admitted prior art and McDermott et al. disclose all limitations of the claims except for the value of x is 0.5. Cherng teach the value of x is 0.5 (page 1). For the benefit of a GaAsSb tunnel junction, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the admitted prior art and McDermott et al. the x value of 0.5 as taught by Cherng.

With respect to claim 5, Cherng disclose TmGa and TMSb.

Communication Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dung (Michael) T Nguyen whose telephone number is (571) 272-1949. The examiner can normally be reached on 8:30 - 17:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Don Wong can be reached on (571) 272-1834. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-3329.

Michael Dung Nguyen


Don Wong
Supervisory Patent Examiner
Technology Center 2800